SWBT consistently misses the benchmark by its widest margins when the volumes are highest, hardly a comforting prospect for CLECs seeking to expand their commercial activities.

50. SWBT claims of timely provisioning are also belied by the disputed industry-wide PMs 114 and 114.1 on which it wants to rely.[21] In the very period it selected, on this second go-round, as indicative of its ability to comply with its Section 271 obligations, SWBT fails to demonstrate compliance. Instead, SWBT reports inescapable evidence of non-compliance, supplemented by unconvincing excuses and promises of future compliance.

Performance Measure 114.1—Completion Interval (Industry-wide)[22]

	December			January			February		
	Cutovers	**% ≤ 1 hr**	**% ≤ 2 hr**	**Cutovers**	**% ≤ 1 hr**	**% ≤ 2 hr**	**Cutovers**	**% ≤ 1 hr**	**% ≤ 2 hr**
CHC	2,127	83.3	93.5	1,349	85.5	93.0	1,896	78.5	93.4
FDT	2,083	94.1	96.0	1,293	93.6	95.3	2,258	89.9	92.1
TPUC Benchmark: Interim –100% within 120 minutes: Final - to be determined									

51. First, SWBT plainly fails to meet the Commission's standard for on-time performance with respect to CHC loops in both January and February. As the above chart, which is taken directly from SWBT's reported data in the Conway/Dysart Supp. Aff. ¶ 13, shows, in January, SWBT reports on-time performance for only 85.5 percent of CHC loops, while for February that performance deteriorated to 78.5 percent -- far below the 90 percent minimum that this Commission required for on-time performance in the BANY Order. And

[21] Although Conway/Dysart also discusses PM 115, which was intended to measure late cuts, that measure is of no practical utility. See UNE-Loop Decl., ¶131-32. For this reason, the data have not been reconciled by PPIG, and the Measure is going to be supplanted by an entirely new measure when the next round of changes to SWBT's Performance Measures is implemented. See discussion below.

[22] December data from SWBT 3/2 Ex Parte, p.4; January and February data from Conway/Dysart Supp. Aff., ¶13.

although SWBT's performance for FDT was somewhat better than for CHC, even for FDT SWBT manages to report only 89.9 percent on-time for February.

52. This self-reported data for PM 114.1 significantly overstates the quality of SWBT's performance. As stated above, it is not only unreconciled – and the reconciliation shows that SWBT underreports its misses – but it is based on loops, rather than orders, which further understates the percentage of late cutovers as compared to the order-based reporting evaluated in the BANY Order.[23]

53. But all of SWBT's self-reported PM 114.1 data is overstated and entirely worthless for yet one further, fundamental reason. Measure 114.1 is defined in a way that inexplicably excludes a critical step in the hot cut process, rendering its concept of "completion" useless. The business-rule defines the CHC disconnect/cross-connect interval as beginning with the initial coordinating call between SWBT and the CLEC, and ending when the SWBT frame technician calls the SWBT LOC, ignoring completely the final and crucial step in the process, SWBT's concluding coordinating call to the CLEC, which tells the CLEC to port the number and end the customer's loss of service. See UNE-Loop Decl., ¶¶155-56.

54. There is commonly a gap between when the frame technician closed out and the time the LOC contacted AT&T. With this gap, the data "are not sufficient to show that SBC is completing its hot cuts with the same degree of timeliness" as was found minimally acceptable in BANY. See DOJ 3/20/00 Ex Parte, p.9. This gap would not be captured by the existing business rule, but the gap between the technician's close out and the LOC's notification of the CLEC may well push the order beyond the on-time interval. More importantly, there is a serious potential for

[23] As discussed in Section II.C. below, it is only possible for the loop-based measure to be higher than the order-based measure in the unusual circumstance where a BOC "misses" all of the loops on many large volume orders, but correctly provisioned most loops on many small volume orders.

an outage as well. As discussed further below, it is essential that a more accurate and realistic definition of this measure is developed.

55. Nevertheless, even taken at face value, SWBT's self-reported PM 114.1 data does not prove compliance with the Commission's minimum standard. Instead, it shows consistent untimely performance.

56. SWBT tries to buff up its inadequate PM 114.1 performance by reporting it in a second, non-standard way. Thus, it reports figures that purport to "exclude CLEC Caused Misses for Base of Cuts." Conway/Dysart Supp. Aff., ¶13. In some instances, though not in all, this has the effect of raising SWBT's on-time performance by several percentage points in a given month.

57. This is improper. As AT&T has previously explained, the business rules for PM 114.1 do not provide for any exclusions for CLEC-caused misses. Equally important, SWBT has never provided any evidence that CLECs have caused any significant number of cutovers to miss the targets in PM 114.1. The Conway/Dysart Supplemental Affidavit does not remedy this problem.

58. To begin with, the Conway/Dysart Affidavit fails to provide any analytical foundation or evidentiary support for its allegation that CLECs have caused a significant number of missed intervals. The only support it offers is an unverified citation to a single AT&T order on which SWBT claims AT&T was the cause of the late cutover. Conway/Dysart Supp. Aff., ¶17 n.6. SWBT does not identify this order by PON or otherwise, and thus AT&T (and this Commission) cannot confirm whether AT&T in fact caused that one delay as SWBT has alleged.

59. Apart from this one order, Conway/Dysart merely appeal to the "experience of the PPIG" for support. However, after reconciling all of AT&T's orders with SWBT for the months

of December, January, and February, the PPIG identified no orders on which AT&T was deemed to be the cause of a late cutover. Based on this experience, SWBT's estimates of the number of CLEC-caused misses industry-wide – which are unreconciled and unaccompanied by any analysis or data – cannot be considered anything other than unverified, wildly exaggerated, and deserving of no weight.

60. SWBT also attempts to get around its non-compliant on-time data by pointing to the percentage of time that it has completed cutovers within 2 hours, rather than within the one-hour standard deemed minimally acceptable in the BANY Order. AT&T has previously set forth in detail the reasons why a 2-hour interval for all hot cut orders is commercially unrealistic and technically unnecessary, and has explained that the TPUC's adoption of that standard was done peremptorily without hearing or considering any CLEC commentary whatsoever. Most notably, since the vast majority of CLEC hot cut orders are for fewer than 10 loops, there is simply no basis for allowing SWBT to put the customer out of service for up to two full hours when the cutover easily can and should be completed within one hour. Indeed, the reconciled data leave no doubt that – when SWBT performs its job properly – it can meet the one hour window without any difficulty. Perhaps for this reason, as discussed further below, the revised PM 114.1 now under consideration in Texas would require SWBT to meet a one-hour interval for orders of fewer than 10 loops. SWBT itself proposed in the 6 month review a disaggregation that would allow for a one hour interval for 1-10 loops. See SWBT's Proposed Revisions to Performance Measures (Attachment I).

61. Nevertheless, even accepting SWBT's claim that it should be judged by the two-hour interval originally adopted by the TPUC, there is simply no reason not to apply the standard that the same TPUC adopted to determine compliance with that two-hour interval. Having given

SWBT an extra (and entirely unnecessary) hour to complete its cutovers, the TPUC understandably demanded that SWBT meet that unduly generous interval 100 percent of the time. Contrary to SWBT's assertion, this most assuredly is not a "standard of absolute perfection." Conway/Dysart Supp. Aff., ¶15. It does not demand perfection, because it builds in an entirely gratuitous one-hour cushion for every order – even for an order for only one loop! For this reason, to the extent that SWBT seeks to rely on its compliance with the two-hour cutover interval set by the TPUC, it is only fair and reasonable that it be required to show compliance with the 100 percent standard that the TPUC simultaneously set to govern that interval.

62. As SWBT's self-reported data reveal, SWBT has not come close to meeting the TPUC on-time standard. For example, for FDT orders alone, and even excluding CLEC-caused misses, SWBT shows that it fell short of the 100 percent standard on 3.7 percent of loops in January and by an even larger 7.7 percent in February. Thus, whether judged against the BANY standard or the TPUC's on-time standard, SWBT's on-time performance falls far short of what is required to give CLECs a meaningful opportunity to compete using hot cut loops.

b. Performance Measure 114 – Premature Disconnects

63. SWBT also points to its performance as measured by PM 114 as evidence that it is providing CLECs with on-time performance. See Conway/Dysart Supp. Aff., ¶9-11. Certainly PM 114 is relevant to on-time performance. It is intended to capture those cutovers that SWBT starts more than 10 minutes ahead of schedule, and thus picks up those SWBT failures to provision on-time that are the result of an early, rather than a prolonged, cut. But contrary to SWBT's claims, the data for PM 114 only provide further, and thus cumulative, proof that SWBT is not providing on-time performance.

64. To begin with, the reconciled data on SWBT's performance for AT&T orders shows that something has recently gone seriously wrong, with the premature cut rate for Dallas soaring in February to 20.2 percent for CHC and 10.5 percent for FDT. It is obviously disturbing that SWBT's performance in AT&T's currently most significant market area is so far out of compliance. Furthermore, while SWBT may have been in compliance in December and January, it originally reported that it had no premature cuts, whereas the reconciled results show 1.6 percent premature CHC cuts and 1.7 percent for FDT in the Dallas area for December, and 1.2 percent for FDT in January.

65. SWBT also fails to meet the TPUC benchmark with regard to premature disconnections. While the TPUC set a benchmark of 2 percent or fewer disconnects starting 10 minutes prior to the scheduled time, the SWBT PM 114 data in the Conway/Dysart Supplemental Affidavit (at ¶9) show that it fails to meet this standard two out of three months for CHC and 1 out of three months for FDT.

Performance Measure 114—% of Premature Disconnects (Industry-wide)[24]

	December		January		February	
	Cutovers	**% Premature**	**Cutovers**	**% Premature**	**Cutovers**	**% Premature**
CHC	2,129	0.5%	1,349	3.9%	1,896	11.2%
FDT	2,083	0.7%	1,293	1.0%	2,258	4.2%
TPUC Benchmark: 2% or less premature disconnects starting 10 minutes before scheduled time.						

66. Thus, as was the case with outages, SWBT has failed to show that it provides CLECs with a minimally acceptable level of on-time performance. That is plainly shown in the reconciled data, and is evident even in SWBT's self-reported data. For this additional, independent reason, SWBT has yet to provide CLECs a meaningful opportunity to compete.

[24] See Conway/Dysart Supp. Aff., ¶9.

3. Trouble Reports

67. In BANY, the Commission mandated that minimally acceptable performance required that the BOC show that it received trouble reports on fewer than 2 percent of loops within 7 days from installation (referred to in the industry as an "I-7" measure). The data make it clear that SWBT has not demonstrated compliance under this standard either.

Troubles within 7 days—excluding NTF/CC/TOK (AT&T data)[25]
(derived from raw data for PMs 59 and 65 for Dallas and Houston)

	December	January	February
Total	2.8%	2%	4%
BANY Standard: trouble on fewer than 2% of loops within 7 days			

68. These results continue the pattern AT&T pointed out to the Commission in a March 6, 2000 ex parte; SWBT's I-7 rate "far exceeds both Bell Atlantic's 0.7% average trouble report for the three month period examined by the Commission as well as the highest trouble report rate of 1.26% which Bell Atlantic reported during that period." AT&T Ex Parte (March 6, 2000), p.10.

69. AT&T calculated an I-7 measure based on SWBT's self-reported data, because SWBT itself nowhere attempts to demonstrate compliance with the third BANY requirement on its own terms.[26] The 30-day standard originally established by the TPUC was set without the guidance of the BANY Order, and, in any event, AT&T agrees that a 30-day measure has value. But certainly for purposes of comparison with the BANY standard, SWBT could voluntarily have reported trouble data on a 7-day basis. Instead, it decided once again to ignore the standard

[25] When NTF ("no trouble found"), etc., are included, the I-7 rates are 3 percent for January and 5 percent for February. To be conservative, AT&T has used the number most favorable to SWBT.

[26] The methodology for this calculation is the same as that AT&T previously has used to calculate SWBT's I-7 performance in prior months. See UNE-Loop Decl., ¶124 and nn. 78 and 79. (explaining methodology). Apart from claiming that NTF should be excluded, SWBT has not disputed the validity of AT&T's methodology.

established in BANY and confuse the Commission's deliberations by relying on a new measure of its own invention.

70. Rather disingenuously, the Conway/Dysart Supp.Aff. says that:

> [i]n order to provide the FCC with a more manageable comparison to Bell Atlantic, which measures its trouble reports on a 7 day basis, SWBT undertook a manual breakdown of its I-30 report for December into reports received on CHC and FDT conversions within 10 days of installation.

Conway/Dysart Supp. Aff., ¶19. The question that SWBT leaves unanswered, however, is why it took the time to manually re-process the data only to generate an I-10 measure, rather than simply calculate an I-7 measure that would genuinely promote a "more manageable comparison to Bell Atlantic." AT&T is not aware of any state mandate that requires a 10-day measure, nor is there any retail regulatory reporting requirement. The only apparent reason why SWBT invented this new, idiosyncratic measure is to create a new excuse for its non-compliant performance, that is, that its higher trouble percentages reflect the fact that it is capturing 10, rather than 7, days of troubles.[27] But that excuse is entirely a manufactured one, and should be ignored.

71. Moreover, SWBT's performance has consistently failed to meet the TPUC's I-30 measure. Indeed, for many months now, SWBT has not demonstrated parity performance under the TPUC's I-30 benchmark, and thus fails to demonstrate nondiscriminatory treatment under that standard as well.

[27] Stated another way, it must be the case that SWBT's I-7 data is not any better than its I-10 data; otherwise it just would have reported I-7 data.

Troubles within 30 days (Industry-wide data)

	December		January		February	
	8db loops	**5db loops**	**8db loops**	**5db loops**	**8db loops**	**5db loops**
Industry-wide	5.8%	4.9%	8.0%	28.9%	5.6%	2.9%
SWBT	3.1%	2.2%	3.0%	2.0%	3.1%	2.0%
TPUC Benchmark: parity						

72. AT&T's orders also experienced an alarming rate of troubles within 30 days: 9.9 percent in December, 4.0 percent in January, and 7.4 percent in February. Indeed, the February I-30 rate for Houston was a disturbingly high 16.9 percent.[28]

73. The Conway/Dysart Supplemental Affidavit concedes what it calls "a higher than normal I-30 rate," and promises process improvements under which its I-30 results "are expected to improve." Conway/Dysart Supp. Aff., ¶¶23, 24. Once again, however, these promises of future improvement are no substitute for the demonstration of existing compliance.

II. SWBT Still Has Not Established The Properly Defined Performance Measures and Accurate, Mechanical Data Gathering And Reporting Processes Needed To Demonstrate Nondiscriminatory Provisioning Of UNE Loop Hot Cuts

74. The preceding section of this affidavit demonstrated SWBT's failure to demonstrate compliance with any of the three measures of minimally acceptable performance set forth in the BANY Order. As noted above, non-compliance with any one of those measures is grounds for enforcement action by the Commission and thus indicative of a failure to fully implement the duty to provide CLECs with a meaningful opportunity to compete. But there are

[28] SWBT has stated that I-30 data is not representative of its trouble rate on hot cut loops because it includes categories of loops other than hot cut loops (new and "moved" loops). However, given that overwhelming majority of AT&T's loops are hot cut, the measure is a good indicator of hot cut troubles, at least with respect to AT&T's orders. SWBT has not shown why AT&T's data would be unrepresentative of the industry as a whole.

two additional, and vitally important, reasons why SWBT has not yet provided CLECs with a meaningful opportunity to compete.

75. First, SWBT has not yet proven that it can reliably provide accurate reports of its performance. Time and again, on measure after measure, and month after month, the reconciliation process has exposed numerous errors in SWBT's processes for gathering and reporting data that have required correction and that have resulted in material changes to SWBT's reported performance.

76. Second, SWBT's performance measures, as currently defined, do not require SWBT to report on all of the aspects of its provisioning performance that are relevant to the evaluation of whether it meets the Commission's minimally acceptable standards. For example, none of the measures, as currently defined, requires SWBT to report on defective cuts, and PM 114.1, which reports on cutover intervals, excludes the crucial step of having the LOC call the CLEC which, when delayed, directly increases the length of time that the customer is out of service. Once again, only by sitting down and manually reconciling SWBTs raw data, order by order and loop by loop, with the CLECs' raw data, can a record be created on which to fully evaluate SWBT's performance.

77. Simply put, subjecting CLECs to a manual reconciliation process as the price of receiving accurate information on SWBT's provisioning performance is itself a complete denial of a meaningful opportunity to compete. The process is extraordinarily resource-intensive, and cannot possibly be performed for more than a relatively small number of orders. As long as manual data reconciliations are required, CLECs will be condemned to placing only the small volume of orders that they can manage to track and reconcile on an individual basis.

78. To provide CLECs with the ability to move beyond this "boutique" level of market entry and give them a truly meaningful opportunity to compete—i.e., the ability to compete for significant volumes of new customers—it is absolutely imperative that SWBT make further comprehensive data reconciliations unnecessary. As explained further below, to accomplish that SWBT must first establish properly defined performance measures, and must implement accurate and, wherever possible, mechanized data gathering and reporting processes to ensure that its performance reports truly reflect the level of service that it is providing to CLECs.

A. Until SWBT's self-reported data is consistently accurate and reliable, SWBT cannot be deemed to provide CLECs a meaningful opportunity to compete.

79. In our own reconciliation work with SWBT's representatives, we have each spent countless hours and days manually sifting through AT&T's and SWBT's provisioning logs and raw data in an effort to get to the bottom of every order on which a question has arisen. Our counterparts at SWBT have similarly put in many hours. And as a result, AT&T has been able to present this Commission with jointly attested-to data that fairly reflects SWBT's performance for AT&T on the measures this Commission has deemed relevant.

80. In the course of this reconciliation work, it has become clear that SWBT lacks the internal processes needed to capture and reported data accurately. These problems affect a large range of issues on which SWBT is required to report. Each of these problems is a serious and fundamental one that must be addressed before CLECs can ramp up their volumes to competitive levels.

81. As discussed in Sarah DeYoung's initial declaration, SWBT relies almost exclusively on its LOC personnel to manually collect and report data for its hot cut measures. During a scheduled hot cut, the SWBT frame technician performing the cut reports to SWBT's

LOC personnel on the status of the cut. The LOC staff, in turn, records the information received into provisioning logs (known as an "OSSLOG") which are maintained on a SWBT database known as the work force administration ("WFA") database. The performance measure data is gathered from the information recorded in the provisioning logs. For measure 114, the provisioning logs are manually reviewed to identify early cuts, which are individually tallied on sheets of notebook paper and then provided to the SWBT performance data coordinator (this becomes SWBT's "raw data" for purposes of the performance measures). See UNE-Loop Decl., ¶¶224-25. For measure 114.1, the start and stop times are noted in a "close out comments" module within WFA, which are then summarized for purposes of performance measures reporting.

82. **Defects Affecting All Outages**: In the prior outage reconciliation efforts, SWBT had led AT&T to believe that its LOC technicians open a "pseudo trouble ticket"—which AT&T understood to be a form that captures all of the data on outages that occur during the provisioning process and is akin to the trouble tickets that are submitted after the order has been closed out. Thus, AT&T believed that these reports could be tallied to determine how many outages were associated with SWBT's hot cut provisioning. During the latest reconciliation effort, however, it became clear that this is not the case. Moreover, although the fact that an outage occurred is embedded in the log notes, there are no fields within the provisioning logs that capture whether an outage occurred, and hence no systematic mechanism for tracking the number of outages. As a result, many outages do not get captured by the SWBT PPIG team members that review the logs. Indeed, in every month for which AT&T has received SWBT's raw data on its outages, AT&T has reported more outages to SWBT than SWBT has identified to AT&T. The most dramatic example of the differences in AT&T's and SWBT's raw data

occurred in February, where SWBT identified only XX outages and AT&T identified an additional XX that needed to be reconciled.

83. Moreover, the facts that demonstrate an outage are often so buried in SWBT's log notes that enormous scrutiny is required to identify them. Indeed, in each month for which AT&T and SWBT have reconciled data, there have been a number of orders for which AT&T has had detailed records of provisioning problems but for which SWBT has maintained that it had no records, a category the PPIG calls "Bucket 26."[29] During the reconciliation of the December to February PPIG data, in the majority of such cases, the PPIG was able to uncover enough information to move the order into a SWBT-caused outage bucket. In one extreme example pertaining to a February order, the PPIG had to review the SWBT log notes for 45 minutes before SWBT found the language demonstrating that an outage had occurred.

84. In other instances, there is simply no explanation for SWBT's insistence that orders be placed in Bucket 26. In connection with the latest PPIG reconciliation, AT&T discovered a number of instances in which SWBT had classified the orders as belonging in Bucket 26 even though the raw data for those orders showed that SWBT had separately reported those outages as premature cuts under PM 114. Thus, such orders never belonged in Bucket 26 in the first place.[30]

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[29] As part of the reconciliation process, the Joint SWBT/AT&T PPIG Task Force categorized data according to 27 different "buckets" or categories of root causes. (For the entire list of all 27 buckets, see Attachment 2 of the Joint Affidavit of Mark Van de Water and Robert J. Royer, which was included as Attachment 8 of the DeYoung UNE-L Declaration.) Buckets 25, 26, and 27 were reserved for instances where there was some conflict over the data. Bucket 25 collected all instances in which troubles appeared in the SWBT Troubles Log but not on the matching AT&T record. Conversely, Bucket 26 collected all instances in which troubles appeared in the AT&T Troubles Log but not in the matching SWBT record. Finally, Bucket 27 collected those orders for which both AT&T and SWBT had records, but could not agree on the root cause of the trouble.

[30] These mistakes confirm that the outage figures that the PPIG reported for August-October were actually understated because of the exclusion of a number of Bucket 26 outages See UNE-Loop Decl., ¶94.

85. SWBT's misclassification of outages in Bucket 26 was most egregious in February, when SWBT initially insisted that XXXX orders (twice the highest number that had ever previously been placed in Bucket 26 before) belonged in Bucket 26. By the time that the PPIG finished a re-review of the Bucket 26 orders for February, only XXXX of the initial XXXX outages classified as Bucket 26 remained in Bucket 26, and SWBT agreed that of the other XXXX, XXXX were, in fact, SWBT caused outages. None of the reclassified Bucket 26 outages were reclassified as AT&T-caused.[31]

86. **Defects Affecting Outages Due to Premature Disconnects:** The data collection process for premature disconnects is still highly manual and unreliable. As a result, AT&T uncovered 10 premature disconnects in December – February that were clearly recorded in WFA logs or outage desk records but not in the manual summary provided to Performance Measure personnel.

87. Moreover, the data reconciliation revealed SWBT's utter inability to identify the magnitude of orders impacted by systemic problems experienced by SWBT, such as the software programming error in SWBT's RCMAC system that caused an alarming number of premature disconnects in February. As reported in the DeYoung Reply Declaration in SWBT's initial filing, AT&T learned of SWBT's RCMAC problem not from SWBT, but from a disgruntled customer who had lost service. When SWBT disclosed the nature of the problem to AT&T, it initially represented that the error had only affected FDT orders. Moreover, even after several weeks of investigation, SWBT was still unable to confirm the precise number of AT&T's

[31] Similar efforts were undertaken for the Bucket 26 outages in the other months. In December, there were initially XXXX orders placed in Bucket 26, after re-review, only XXXX XXXX, XXXX of the other XXXX were classified as SWBT-caused, and XXXX were deleted. In January, there were initially XXXX orders placed in Bucket 26, XXXX XXXX, XXXX was deleted and the other XXXX were reclassified as SWBT-caused.

customers who prematurely lost service due to this software error. It was only after reviewing SWBT's February performance data in the reconciliation that it became clear that the RCMAC error affected CHC orders in addition to FDT orders, and that the precise number of orders affected by the problem in February was determined.

88. **Defects Affecting Outages Due to Delayed Cutovers and Prolonged Cutovers**: There were numerous instances in which AT&T recorded longer cutover intervals (and some instances in which its customers experienced outages) as a result of the failure of SWBT's failure to promptly notify AT&T of the completion of CHC cutovers; these delays were not captured in SWBT's performance reports. In addition, there were a number of instances in which the start and stop times noted in the provisioning logs were not accurately entered in the close out comments fields that SWBT added to WFA for purposes of PM reporting.

89. **Defects Affecting All Hot Cut Measures:** The joint reconciliation also uncovered a number of defects that affect the integrity of the volumes of hot cut orders and lines – which has an effect on the integrity of all the hot cut related raw data. For instance, because the raw data is summarized manually onto tally sheets for purposes of PM reporting, a number of discrepancies were found between the raw data totals and the website totals in the December and January data. In addition, there were numerous instances in which the data was correct in WFA but incorrect in the raw data, including missing orders, the wrong number of lines for an order, and duplicate records. There were also instances in which the raw data reflected incorrect completion dates due to WFA system constraints that prevent the LOC technician from backdating completion dates when he does not complete the WFA entries on the same day the order is completed. Finally, the raw data reflected an inflated number of PONs because of SWBT's arbitrary requirement that CLECs send multiple LSRs for a single customer simply

because SWBT has not consolidated that customer's account onto one bill. As a result, the raw data reflecting order volumes is artificially inflated.[32]

90. Given these deficiencies, it is unsurprising that the number of loops and orders that SWBT has reported for a given month has changed over time. Indeed, the reported number of loops that SWBT cut for AT&T in December has changed a total of 4 times. SWBT initially reported on its website XXXX loop cutovers for AT&T. In her reply declaration in connection with SWBT's first application, however, Ms. Conway reported XXXX cuts for AT&T. SWBT then restated the number of lines for AT&T reported on the website PM data in April, and reported XXXX cuts. The reconciliation, however, showed that there were in fact XXXX lines cut in December.

91. There were also two types of errors that affected SWBT's reporting on CLEC caused misses. First, the CLEC exclusion data was not clearly identified. For example, the December and January raw data for PMs 114 and 114.1 included 4 "Jeopardy" columns with missed function code information (the codes that identifies whether the "miss" should be counted against SWBT) that were merely labeled 1-4, and were thus impossible to interpret. For example, after questioning by AT&T on how to interpret the codes, SWBT stated that one of the codes was intended to capture missed due dates under Measure 58—which is not relevant to raw data for a reconciliation of PMs 114 and 114.1. As a result of the ambiguity in the missed function codes, it was unclear from reviewing the raw data what the reason for the "miss" was, or whether the CLEC had, in fact, caused it. In addition, SWBT made errors in the assignment of blame on CLECs. For example, the one CLEC-caused miss for PM 114.1 in the three months

[32] This requirement, from an OSS standpoint, is extremely burdensome, and should be eliminated. Further discussion of this point is in the DeYoung/Chambers Affidavit.

of data reviewed that was attributed to AT&T turned out to be SWBT caused.[33] As with the findings from the last data reconciliation project, the findings from this round of performance data reconciliation and the PPIG's latest outage reconciliation efforts demonstrate that SWBT's performance measure reporting suffers from systemic defects that make reliance on that data impossible. Indeed, the data reconciliation performed by other CLECs confirm the fundamental, systemic problems with SWBT's performance measure reporting. See Affidavit of Nancy Reed Krabill on Behalf of Nextlink Texas, Inc., ¶5 et seq., filed with the TPUC on April 19, 2000 (Attachment J).

92. Moreover, some of the deficiencies that were uncovered in this latest round of performance measure reconciliation had already been discovered when AT&T and SWBT last reconciled data. Although SWBT took action items to correct these, the defects remain. For example, as noted above, SWBT's data collection process for premature disconnects is still highly manual and unreliable – a problem that had been identified in the first round of data reconciliation. Other deficiencies stem from poor implementation of the action items implemented after the last data reconciliation of performance measures. For example, as a result of the mistakes uncovered by AT&T when AT&T and SWBT first reconciled data in connection with the manual recording of start and stop times,[34] SWBT agreed to mechanize this process.

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[33] AT&T's experience in reconciling CLEC caused misses confirms AT&T's strong suspicion that the number of "misses" attributed to CLECs by SWBT in connection with PM 114.1 in the ex parte submissions that it filed in connection with its initial application are grossly overstated. As AT&T had stated in that proceeding, because PM 114.1 (as currently defined) only measures the time between the CLEC authorization of the start of the hot cut and the time that the LOC frame technician calls the LSC to report that his work is completed, it is highly unlikely that CLECs could cause misses during this time frame. Because the reconciliation demonstrated that SWBT could not even attribute 1 delayed cutover to AT&T's actions, it is highly unlikely that the 3 misses attributed to CLECs in December in SWBT's March 2, 2000 Ex Parte (p.4) are accurate, unless other CLECs' procedures are vastly different than AT&T's.

[34] SWBT admitted that the data quality submitted in connection with its first application suffered as result of the varying proficiency of the technicians in recording the stop and start times of the cuts.

Although fields for start and stop times have been added to the WFA database, the data reconciliation captured numerous instances in which the start and stop times noted in the provisioning logs did not match the corresponding fields in WFA. [35]

93. Finally, all of the PPIG's outage reconciliation efforts, but especially the latest round, demonstrate the highly manually intensive nature of the effort that is required to determine an accurate assessment of outages—the most critical of the three criteria that this Commission has used to assess an RBOC's hot cut performance. The data reconciliation of the performance measure data—and in particular the loop and order volume data – was also an extremely resource intensive process. These manually intensive processes cannot be sustained at competitive volumes. Instead, SWBT must fix its data collection and reporting procedures so that the performance data it reports is reliable.

94. Because of the systemic nature of SWBT's data collection and reporting problems, Sarah DeYoung prepared and attempted to present to the TPUC an action item list that recommends corrective action in a number of key areas. See Action Item List (Attachment H). When these action items were being presented to the TPUC during their April 17, 2000 meeting, however, SWBT moved to close further discussion on the issue after only the first item had been presented, and the TPUC granted that motion. See TPUC April 4, 2000 Workshop Transcript, pp.245:4-248:22 (Attachment K). Aside from this resistance to discussion, SWBT has not yet responded to the action item list and its recommendations.

[35] SWBT has had other problems with mechanization of stop and start times. At least one of SWBT's many restatements of its loop and order volumes for December, for example, was due to the fact that the mechanization of the start and stop times had caused SWBT to be counting only the first two lines of every order. See SWBT 3/2 Ex Parte, p.2.

B. New Performance Measures Are Needed To Capture The True Quality Of SWBT's Provisioning Performance

95. Finally, to eliminate the need for comprehensive manual reconciliations of all orders, SWBT must establish performance measures that are defined properly so as to capture all of the performance data relevant to nondiscriminatory loop provisioning. Although SWBT, together with the TPUC and CLECs, is now taking steps toward establishing those measures, that process is unfinished and the needed measures still have not been implemented. See Proposed Revised Performance Measures (Attachment I).

1. SWBT Needs To Capture All Outages

96. The most glaring defect in SWBT's current performance measures is the lack of any measurement designed to capture outages due to defective cuts. As AT&T has previously explained, these are outages that have nothing to do with the timing of the cut – they are caused instead by SWBT's faulty equipment or translations, or by failure to perform the cutover process properly, e.g., to attach the cross-connect to the proper cable and pair, to attach the wires securely, to use non-defective wires, etc. These types of outages accounted for approximately 45 percent[36] of the outages that PPIG attributed to SWBT for December through February (see Root Cause Analysis Charts (Attachment F), and yet none of them appears or is intended to be captured by SWBT's existing performance measures.

97. Although AT&T has pointed this problem out for months, it was not until this month – after it filed its renewed 271 application – that SWBT finally acknowledged the problem and began to take steps to address it. In proceedings before the TPUC, SWBT has

[36] If the SOAC problem is included, which increased the number of outages due to premature cuts, defective cuts represent 28% of the outages.

admitted that a new performance measure is needed that would capture outages due to defective cuts.

98. Specifically, SWBT has proposed that to replace the current Measure 115 with an entirely new definition that would measure the percentage of loops for which a Provisioning Trouble Report (PTR) is generated. A PTR is a mechanized record of a reported trouble. To generate a PTR, a CLEC must first call SWBT and report a potential outage on one or more lines. At that point, with the order status still unresolved, the CLEC must accept the order so that SWBT can mark the order as "closed," which is a precondition on its side for generating a PTR. The advantage to SWBT of adopting this process is that it would enable SWBT to record all outage reports electronically, via the PTR, rather than be reliant as it is today on its written records of CLEC complaints recorded manually by SWBT representatives in SWBT's provisioning logs.[37]

99. Although SWBT's proposal is a step in the right direction, it raises significant questions that must be resolved before the new measure can be finalized. For example, the new measure requires a CLEC to "accept" an order that it believes is defective so that SWBT can "close" the order and generate a PTR. This approach is not desirable because once the order is closed out, SWBT will strip its switch translations, and it is much harder for the customer to have its service restored. While SWBT has stated that under its new procedure it will attempt to ensure that the translations are not stripped, it remains to be seen whether SWBT can implement this new procedure in a manner that will avoid adverse customer impact. Second, SWBT's proposed measure is based on loops, rather than on orders. For reasons discussed below, that it

[37] SWBT has also proposed a new Measure 115.1, defined as the average time to restore from the opening of a PTR to its close, disaggregated by FDT and CHC. This measure will offer additional information on the severity of the duration of hot cuts.

is a significant change that, if taken at all, will require the development of a new standard of performance. Third, this measure would still not comprehensively measure all outages. For that reason, care must be taken to define its terms in such a manner that the outages it captures can be added together with the outages capture by other measures so as to give a complete picture of SWBT's outage performance. SWBT has yet to demonstrate how its proposed Measure 115 will work in concert with its other proposed measures to achieve that important goal.

2. Revisions to Measure 114 – Premature Disconnects

100. SWBT has also proposed revisions to PM 114. The revised PM 114 would report disaggregated FDT and CHC data, and would do so on the basis of *orders* rather than *loops*. These are each important improvements that should be implemented. Nevertheless, because PM 114 is an important measure of outages as well as of on-time performance, there is inconsistency between SWBT's new PM 115, which proposes to measure outages due to defective cuts on an individual loop basis, and its new PM 114, which proposes to measure outages due to premature cuts on an order basis. The unit of measurement must be consistent across both measures so that an appropriate benchmark for the two measures combined can be established.[38]

3. Revisions to Measure 114.1 – Cutover Interval

101. SWBT has also proposed new business rules for PM 114.1. Significantly, in response to long-standing criticism from both CLECs and the Department of Justice, SWBT has finally agreed to alter the end-time for CHC orders to include the time when the LOC notifies the

[38] There is a further level of refinement needed in SWBT's definition of "orders." SWBT proposes to define orders as "C-orders," which refers to the internal order that SWBT generates when it processes a CLEC's Local Service Request (LSR). In some circumstances, however, SWBT generates multiple C-Orders for a single LSR. Whatever SWBT's reasons for generating multiple orders, it is incompatible with the needs of CLECs trying to place multi-line orders, and fundamentally inconsistent with an order-based system of accounting for outages. The "orders" that were considered in the BANY Order, and the "orders" that matter to CLECs and, most importantly, to their customers, are what is reflected in the

CLEC of the completion of the order. (The end time for FDT orders would remain the time when the frame technician completes the work, since no final call to the CLEC is required for FDT.) If implemented accurately, this would resolve the "gap" in the old measure that excluded delays in calling the CLEC that directly translated, minute for minute, into additional service outages for the customer.[39] This gap accounted for the difference in intervals on XXXX of the orders reviewed in the reconciliation. Thus, fixing this gap is a significant improvement that should be implemented promptly.

102. In another significant step forward, SWBT has proposed to disaggregate its PM 114.1 reports into orders for 10 or fewer loops and orders for more than 10 loops. This is doubly important. It moves the unit of measurement from loops to orders, which is appropriate, and it separates out SWBT's performance on orders for more than 10 loops. In AT&T's experience, orders of that size are quite rare; in virtually all cases, it will make more economic sense for the customer to order a T1 or higher capacity facility than to order 10 or more individual loops. The average number of loops per order in the December through February period reconciled by AT&T and SWBT was XXXX, and so reports based on orders of 10 or fewer loops is eminently appropriate. It also has the virtue of being consistent with the standard applied in the BANY Order.

103. At the same time, the proposed PM 114.1 needs further refinement. For example, SWBT proposes that its performance standard should be only 90 percent completion within one hour for order of 10 or less loops, and 90 percent within two hours for greater than 10 loops. While this Commission accepted Bell Atlantic New York's 90 percent on-time performance

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single LSR sent over by the CLEC. Therefore, SWBT needs to refine its proposed Measure 114 further to capture LSR orders, rather than C-orders.

[39] See DeYoung UNE-L Decl. ¶155-56.

within one-hour, it noted that the New York PSC had set a higher 95 percent standard as the benchmark. This shows that the New York PSC believed that better than 90 percent on-time performance is technically feasible, and SWBT has made no showing to the contrary.

104. In addition, SWBT must alter the definitions of its proposed measurements to ensure that each captures SWBT's performance on cutovers for SWBT customers served by IDLC facilities. Currently, because cutting over such customers requires "field work" that may or may not get done before the scheduled frame due time, SWBT proposes to exempt such cutovers from any hot cut measure. That is inappropriate. A more reasonable approach would be for SWBT and CLECs to agree that, in the event IDLC facilities are not discovered until the very eve of the cutover (which should not happen in any case if SWBT follows proper pre-installation procedures), the frame due time for the cut should be moved automatically to 5:00 p.m., giving SWBT all day to perform the necessary field work, and the cutover treated thereafter for provisioning and reporting purposes as a CHC with a frame due time of 5:00 p.m.

C. Orders v. Loops

105. A final and significant, cross-cutting issue is whether SWBT's measurements of hot cut outages and on-time performance (i.e., measures 114, 114.1, and proposed measure 115) should be reported in terms of individual loops or orders. There is no question but that orders, rather than loops, is the appropriate unit of measurement. As AT&T has previously explained, customer satisfaction depends on having the entire order – and not just selected portions of it – cut over on time and in proper working order. A typical-sized hot-cut order in Texas is for between two to three lines, and a business with three lines – one for incoming calls, one for

faxes, and one for internet access – cannot afford to lose any one of those lines without suffering adverse effects, blaming the CLEC, and regretting the change of carrier.[40]

106. The TPUC initially acknowledged the importance of looking at orders (TPUC Reply, p.9), but their analysis actually focused on loops. Id., pp.9-11. Nevertheless, the TPUC noted that while missing one loop might not cause a disruption of normal business functions in a 23 loop order,[41] missing one loop on a three line order means "the customer is more likely to suffer immediate consequences." Id., p.9 n.13. Given the average number of loops per order in December to February was XXXX,[42] the TPUC itself has effectively, if perhaps unwittingly, conceded the logic of measuring by orders rather than loops.

107. SWBT's only justification for its claim that using loops as a unit of measure is more "rigorous" for the BOC is preposterous (as is the notion that SWBT would voluntarily subject itself to a more rigorous standard). See Conway/Dysart Supp. Aff., ¶ 46. Thus, Conway/Dysart propose a hypothetical in which a CLEC, having learned that the ILEC had successfully cut over 5 of 6 lines on time but would be late on the 6th, chooses to "reject the whole order," and cut those 5 successful lines back to SWBT and reschedule the entire order. No CLEC in its right mind would ask for such a result. The customer has already lost business by being out of service; they do not want to have the outage prolonged by having the successful cuts reversed and then go through the whole cutover again on a different day; they just want their

[40] See also DeYoung UNE-L Decl. ¶¶98-104; AT&T 3/6 Hot Cut Ex Parte pp.4-5.

[41] This example is completely hypothetical, because there is no commercial reason for a customer order to contain more than 10 loops. After that point, it would be more cost-effective to simply order a T1 line. Thus, the decision to include in Measure 114.1 all orders from 1 to 24 loops, made by the TPUC and SWBT without CLEC input, never reflected commercial reality.

[42] Bell Atlantic-New York was averaging four to five loops per order (DOJ 3/20 Ex Parte, p.9), so a provisioning error on XXXX XXXX XXXX XXXX in the case of SWBT than it was for Bell Atlantic-New York.

order finished as soon as possible. AT&T would certainly never require this, and is not aware of any CLEC that would. SWBT's purported justification for using the loop as the unit of measurement is thus absurd.

108. Nevertheless, if for operational or other reasons, it is determined that SWBT must measure its hot cut performance on a loop rather than order basis, it is plain that some additional adjustment must be made to the standard of performance that is required. As the Department of Justice observed, a "presentation based on loops likely overstates SBC's performance as compared to" BANY and the minimally acceptable standards established in BANY. DOJ 3/20/00 Ex Parte, p.9. Indeed, the only circumstance in which an ILEC's hot cut performance measured on a loop basis would be identical to its performance measured on an order basis would be if, on every order that was provisioned with an outage or not on-time, every loop was affected by the provisioning problem. While an outage or delay sometimes does affect all the loops in an order, very frequently it does not. Thus, in general, performance reported on a loop basis will tend to overstate performance as compared to reports on an order basis.[43]

109. If SWBT wants to alter the unit of measurement for hot cut outages from orders to loops, then it is incumbent on SWBT to demonstrate that the performance standard for loops that it proposes is equivalent to the fewer than 5 percent standard for outages adopted in the BANY Order. SWBT has not yet done so. In response to SWBT's claim that its system limitations make it difficult to report on a per order basis and in an effort to move the ball forward on mechanizing outage data, however, AT&T has proposed a statistical analysis that would provide an analytic foundation, based in SWBT's empirical data, for establishing an

[43] It is possible for the reverse to occur, but it will do so only when the BOC has recorded "misses" on all of the loops on many large volume orders, but correctly provisioned say, 1 out of 2 loops, on many small volume orders. Experience to date shows that this kind of result is decidedly the exception rather than the rule.

interim outage percentage standard for loops that is equivalent to the fewer-than-5 percent standard for orders. See Methodology Handout (Attachment L). AT&T and SWBT are currently studying that proposal, and have also submitted a copy of it to the TPUC staff. For now, the important points are that, if a decision is made in the future to measure SWBT's performance by loops rather than by orders, (1) any such adjustment should be made on an interim basis only, (2) an appropriate equivalent standard must be adopted, and (3) that standard will certainly be lower than 5 percent.

110. Finally, as stated at the outset, it is important not to lose sight, in this discussion of establishing standards for SWBT that are the same or at least equivalent to the standards deemed minimally acceptable in the BANY Order, that those minimally acceptable standards do not require of any BOC the best performance that it is technically or commercially capable of providing. Certainly that is true of SWBT. In a truly competitive market, SWBT would be pushed toward a standard that is close to zero defects. If AT&T were to reach commercial volumes of XXXX lines per day, the XXXX percent standard would allow SWBT to cause unexpected service outages to XXXX AT&T customers each day, XXXX each week, and XXXX each month. No CLEC could sustain that level of outages and still manage market entry. A competitive market would never tolerate an outage rate anywhere near 5 percent, and SWBT certainly has not met its burden to show that it cannot do better than 5 percent. Indeed, if SWBT were competing with five other BOCs for AT&T's hot-cut business, we have no doubt that SWBT would improve its performance to that level to ensure that it had a realistic shot at getting AT&T as a customer.

111. For AT&T, which (unlike SWBT) does face a competitive market, insisting on achieving the best possible performance that is commercially and technically feasible is a

business necessity. Indeed, with respect to hot cut provisioning, it is AT&T's policy to strive for zero defects. AT&T has implemented this policy by basing the evaluations and compensation of its provisioning personnel on their relative success in achieving this zero defect target. Indeed, while achieving a higher volume of sales is important, AT&T's policy makes clear that the more important objective is to achieve the zero defect target. AT&T must therefore strive for the same goal in FDT provisioning, because a properly functioning FDT process is crucial to achieving competitive volumes in Texas. See discussion at Section I.A.1.a above.

112. As things now stand, however, SWBT has no comparable incentive to achieve such performance and every incentive not to, and hence it resists the setting of any comparable target. When it comes to getting the unbundled hot cut loops that AT&T needs to serve small and mid-sized business customers, SWBT is the "only game in town." And if the performance standard is set at a level lower than what SWBT could achieve, we are certain that SWBT will never exceed the required performance level. That is because SWBT, as a competitor of AT&T, has every incentive to ensure that it disrupts the service of as many of AT&T's new customers as the regulators will permit it to harm. Because of the immense anticompetitive significance of every unnecessary service outage, it is fundamentally unfair to a CLEC – and should be deemed a denial of a meaningful opportunity to compete – to permit SWBT or any BOC to impose more outages and out-of-time hot cuts than it is commercially and technically feasible for them to achieve. The Commission should place the burden on SWBT to show why it cannot achieve a greater level of proficiency than it has shown or been willing to aspire to thus far, and should set a standard that truly prevents discrimination and thereby affords every CLEC a meaningful opportunity to compete.

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I declare under penalty of perjury that the foregoing is true and correct. Executed on April 25, 2000.

Sarah De Young

CC DOCKET 00-65

I declare under penalty of perjury that the foregoing is true and correct. Executed on April 25, 2000.

Mark D. Van de Water